

## Chapter HSS 55

### DAY CARE FOR CHILDREN

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Note: Sections HSS 55.01 to 55.44 as they existed on October, 1984 were repealed and new sections HSS 55.01 to 55.44 were created effective November 1, 1984.

## PREFACE

Section 48.65, Stats., requires that persons who provide, for compensation, care and supervision for 4 or more children under 7 years of age for less than 24 hours a day must be licensed by the department.

The same statute directs the department to establish rules which must be met for a person to qualify for a license and which protect and promote the health, safety and welfare of the children in a day care center. Chapter HSS 55 represents the *minimum* level of acceptable care that a license is to provide to children in a group day care center or day camp in Wisconsin. Chapter HSS 45 represents the *minimum* level of acceptable care that a licensee is to provide to children in a family day care center serving 4 to 8 children. The rules should not be confused with accreditation by professional organizations which is based upon conformity with ideal rather than minimal standards.

Chapter HSS 55 includes procedures for determining compliance of day care programs established by school boards with licensing standards.

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Section 46.98, Stats., directs the department to promulgate rules for certification for public funding of day care providers not required to be licensed and rules for administration of statewide child care programs. These rules are also included in this chapter.

Clearly, the fact that a day care program is licensed or certified in no way diminishes the responsibility of parents for vigilance in seeing that their children are receiving care which protects their physical well-being and encourages healthy intellectual and emotional development.

### Subchapter I — General Provisions

**HSS 55.01 Scope.** Sections HSS 55.01 to 55.10 apply to group day care centers for children and day camps for children.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; am. Register, August, 1989, No. 404, eff. 9-1-89.

**HSS 55.02 Authority and purpose.** (1) **AUTHORITY.** Subchapters I, III and IV are promulgated under the authority of s. 48.67, Stats.

(2) **PURPOSE.** The purpose of this chapter is to protect and promote the health, safety and welfare of children in day care centers in Wisconsin.

(3) **CONSTRUCTION.** This chapter shall be liberally construed to effect the objectives in sub. (2).

(4) **EXCEPTION TO RULES.** The department may grant a variance to a requirement of this chapter when it is assured that the health, safety and welfare of the children served will not be jeopardized. A request for a variance shall be in writing, shall be sent to the department, and shall include justification for the requested action and an explanation of the alternative provisions planned to meet the intent of the rule.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; correction in (1) made under s. 13.93 (2m) (b) 7, Stats., Register, August, 1989, No. 404.

**HSS 55.03 Applicability.** This chapter applies to all day care centers, whether the facility in which the child care and supervision is provided is known as a day care center, day camp, camp, day nursery, nursery school, preschool, head start or other designation, except that it does not apply to family day care centers which are regulated under ch. HSS 45 or to:

(1) Group lessons to develop a talent or skill, such as dance or music, social group meetings and activities, group athletic activities and religious education classes where a child attends for 2 hours or less a day or 5 hours or less a week;

(2) Care and supervision while the parents are on the premises and are engaged in shopping, recreation or other non-work activities;

(3) Seasonal programs of 10 days or less duration in any 3-month period, including day camps, vacation bible school and holiday child care programs;

(4) Care and supervision in emergency situations; and

(5) Care and supervision while the parent is employed on the premises if the parent's child receives care and supervision for no more than 3 hours a day.

History: Cr. Register, October, 1984, No. 346, eff. 11-1-84; emerg. am. eff. 4-22-85; am. Register, August, 1985, No. 356, eff. 9-1-85; am. (Intro.), Register, August, 1989, No. 404, eff. 9-1-89.

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d. Satellite systems of family care, in-home care or a combination of both.

3. Newly operating centers which are experiencing financial difficulties.

(c) The individual, group or center making application shall:

1. Document the need for the specific service to be provided in the area proposed in the plan; and

2. Submit written assurance to the department that the service to be provided will meet the requirements for licensing of the day care centers for children under this chapter.

(d) Application from newly operating centers experiencing financial difficulties shall also include:

1. Documentation of expenditures and income for the total period of operation giving special details of financial problem area;

2. Documentation of need for the service including the target group of parents and children;

3. A detailed operating budget for any period of operation as requested by the department.

Note: A copy of the application form can be obtained by writing: Bureau of Human Resources, Division of Community Services, One West Wilson, P.O. Box 7851, Madison, WI 53707.

(3) USE OF START-UP GRANTS. (a) Grants may be used to:

1. Finance a specific purchase or budget item related to operating costs, including but not limited to:

a. Structural changes to meet licensing and building codes;

b. Necessary equipment to begin or improve operations; and

c. Salary of a staff person or persons for a period not to exceed 12 months;

2. Finance a percentage of the total operating budget for a 12-month period or less; or

3. Substitute for continuation of an in-kind contribution made for a limited period of time which would need to be met by the budget before the program is in full operation, including but not limited to:

a. In-kind donation of free rent by a church, agency or building owner for a limited period of time; and

b. Voluntary services of staff.

(b) Start-up grants may not be used for a service which could be funded from other community, state or federal sources. This does not, however, preclude the collaborative use of those funds with start-up and improvement grant funds to meet the beginning of a needed service.

(4) TIME LIMIT. No subsidy from a start-up grant may extend beyond a 12-month period.

(5) **START-UP GRANTS FOR SATELLITE SYSTEMS OF DAY CARE.** (a) Applications proposing to develop a satellite system of family care, in-home care, or a combination of both shall be accepted only from:

1. An existing center;
2. A licensed agency providing services to parents and children who may need child care;
3. A county department of social services;
4. An accredited college or university offering training in social work or early childhood education; or
5. A corporate community coordinating group concerned primarily with child care.

(b) The satellite system shall have centralized administration which shall include:

1. Recruitment, evaluation and training of the families which will be part of the system;
2. Ongoing training to upgrade the system itself and the quality of the care given;
3. A person who coordinates and supervises the care families in the system and gives or makes available consultation to them on a planned, ongoing basis;
4. An evaluation and approval of each child served and a central file of pertinent data on each child and family; and
5. Centralized bookkeeping.

History: Cr. Register, May, 1983, No. 329, eff. 6-1-83; renum. from HSS 55.50, Register, August, 1985, No. 356, eff. 9-1-85.

**HSS 55.81 Start-up grants for before-school and after-school services.** (1) **AUTHORITY AND PURPOSE.** This section is promulgated under the authority of s. 46.03 (7) (cm) 2 a, Stats., for the purpose of establishing conditions and procedures for the provision of start-up grants for before-school and after-school day care programs for children ages 4 to 11.

(2) **APPLICABILITY.** This section applies to school districts and private nonprofit organizations making application for start-up grants under this section.

(3) **EXCEPTION TO A RULE.** The department may make an exception to any nonstatutory condition or procedure for approving a start-up grant when it is shown to the department's satisfaction that granting the exception is beneficial to the health, safety and welfare of children.

(4) **DEFINITIONS.** In this section:

(a) "After-school academic or recreation programs" means day care programs established or contracted for to provide structured academic instruction or participation in structured recreational activities for children 4 to 11 years of age after school hours.

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(b) "Before-school and after-school day care services" means care and supervision of children 4 to 11 years of age before school, after school, during school holidays or during school vacations.

(c) "Department" means the Wisconsin department of health and social services.

(d) "Division" means the department's division of community services.

(e) "Family day care" means the care and supervision of no more than 8 children for less than 24 hours in a place other than the child's own home.

(f) "In-home day care" means care in the child's own home by someone other than the child's parents on a routine planned basis for a period less than 24 hours.

(g) "Program administration" means the management, support and overhead costs of the nonprofit organization or school district that are allocated to the before-school and after-school day care services or after-school academic or recreation program funded by a start-up grant.

(h) "REP" means a request for proposals, a document released by the department to solicit applications for start-up grants, and which defines who may apply for funding, application procedures, review criteria and procedures for appealing rejection of an application.

(i) "Satellite system" means family day care providers, in-home day care providers or a combination of both which are centrally organized, coordinated and administered.

(j) "Start-up grants" means money payments to an approved applicant to be used for development or expansion of before-school or after-school day care services. The grants are not loans.

(5) APPLICATION FOR START-UP GRANTS. (a) An applicant for a grant shall be:

1. A school district or private nonprofit organization for a grant to establish or expand before-school or after-school day care services or after-school recreation programs; or

2. A school district for a grant to establish or expand after-school academic programs.

(b) The department shall solicit applications for start-up grants by preparing an RFP, publishing legal notice of the availability of the RFP in the official state newspaper, and distributing copies of the RFP upon request. The department shall consult with the Wisconsin department of public instruction in developing the RFP.

(c) Application shall be made in accordance with the format specified in the RFP.

(d) A proposal submitted in response to the RFP shall describe a broadly based planning process involving schools, child care providers, parents and community organizations.

(e) The school district or private nonprofit organization making application shall:

1. Provide information on the level of existing services and the unmet demand for the specific service to be provided in the area proposed in the plan; and

2. Submit written assurance to the department that the service to be provided will meet the requirements for licensing of day care centers for children under ch. HSS 45 or ss. HSS 55.01 to 55.37 [ch. HSS 46] or for day camps for children under ss. HSS 55.40 to 55.44 [ch. HSS 47], as appropriate, if the service is required by law to be licensed.

Note: Prospective applicants may obtain the RFP by writing or phoning the Bureau of Children, Youth and Families, Division of Community Services, P.O. Box 7851, Madison, Wisconsin 53707, 608-266-3036.

(6) AMOUNT OF START-UP GRANTS. (a) A grant for a single program site may not exceed \$10,000.

(b) A grant to a single school district or nonprofit program operating programs at 3 or more sites may not exceed \$30,000.

(7) USE OF START-UP GRANTS. (a) A program or service shall be provided on the premises of a public or private school attended by some or all of the children who participate in the program or service, unless the applicant demonstrates that there is no space available in the school for the service or program and the school provides transportation to the alternative site. A school may provide transportation through an agreement with the start-up grant recipient.

(b) The amount of a grant may not exceed 80% of the cost of establishing the service or program, including in-kind contributions. The applicant shall agree to provide 20% in matching funds or in-kind contributions.

(c) No more than 7% of the grant may be used for program administration.

(d) Notwithstanding par. (a), a grant may be used to establish a satellite system of day care programs to provide before-school and after-school day care services.

(e) Grants may be used to:

1. Finance a specific purchase or budget item related to operating costs, including but not limited to:

a. Structural changes to meet licensing or certification codes;

b. Necessary equipment to begin or improve operation; and

c. The salary of a staff person or persons for a period not to exceed 12 months; or

2. Finance a percentage of the total operating budget for a 12-month period or less.

(8) START-UP GRANTS FOR SATELLITE SYSTEMS OF DAY CARE. (a) An application from a school district or private nonprofit organization proposing to develop a satellite system of family day care shall demonstrate the extent to which the system will meet before-school and after-school day care needs.

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(b) The satellite system shall have centralized administration which shall include:

1. Recruitment, evaluation and training of the providers which will be part of the system;
2. Ongoing training to upgrade the system itself and the quality of the care given;
3. A person who coordinates and supervises the day care providers in the system and gives or makes available consultation to them on a planned, ongoing basis;
4. An evaluation and approval of each child served and a central file of pertinent data on each child and family; and
5. Centralized bookkeeping.

(c) The applicant shall provide a plan for transporting children between the school and the satellite day care sites.

(9) AWARD OF GRANTS. (a) The department shall appoint a panel of reviewers to review and rate proposals and recommend awards based on conditions and criteria set out in this section. The panel shall include a representative from the department of public instruction.

(b) The department shall make awards based on the following criteria:

1. Documentation of unmet demand for services;
2. Demonstrated ability of applicant to effectively administer the grant award;
3. Documentation by the applicant of continued support for the services or program after the start-up period; and
4. Any other criterion specified in the RFP.

(c) The department shall notify in writing all applicants for grants of award decisions. Notification shall be made within 60 days after receipt of a complete application for a grant.

(d) Grant awards shall be contingent upon the signing by both parties of an agreement drawn up by the department. Grant awards may be in a lump sum payment or a series of agreed upon payments over time.

(10) TIME LIMIT. No subsidy from a start-up grant may extend beyond a 12-month period from the effective date of a signed agreement.

History: Emerg. cr. eff. 7-1-90; cr. Register, December, 1990, No. 420, eff. 1-1-91.